

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
(HOUSTON DIVISION)**

NATIONWIDE CAPITAL FUNDING, INC.,)	
)	
)	
Plaintiff,)	Case No.
)	
vs.)	
)	[formerly 061st Judicial District Court of
JOHNSON CONTROLS FIRE)	Harris County, Texas– Case No. 2020-
PROTECTION, LP,)	59389]
)	
Defendant.)	
)	

DEFENDANT’S NOTICE OF REMOVAL

Defendant Johnson Controls Fire Protection, LP (“Defendant” or “JCFP”), by and through undersigned counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby files its Notice of Removal of Case No. 2020-59389, from the 061st Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division on the following grounds:

BACKGROUND

1. On September 23, 2020, Plaintiff Nationwide Capital Funding, Inc. (“Plaintiff” or “Nationwide”) filed a civil action in the 061st Judicial District Court of Harris County, Texas styled *Nationwide Capital Funding, Inc. v. Johnson Controls Fire Protection, LP*, Case No. 2020-59389 (the “State Court Action”). A true and correct copy of all process and pleadings served upon JCFP is attached hereto as **Exhibit A** and incorporated herein by reference. The Civil Cover Sheet for this case is also being filed herewith.

2. Defendant JCFP first received notice of Plaintiff Nationwide’s action by service on its Registered Agent, CT Corporation System, by process server on October 2, 2020.

3. This Notice of Removal is timely. Pursuant to 28 U.S.C. § 1446(b), the notice is filed within thirty (30) days of receipt of paper “from which it may first be ascertained that the case is one which is or has become removable.”

4. Pursuant to 28 U.S.C. §§ 1332, there is complete diversity between Plaintiff Nationwide and Defendant JCFP, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs. Plaintiff has alleged the amount in controversy is \$89,855.25. Exhibit A-Summons & Complaint.

5. The State Court Action could have been originally filed in this Court, pursuant to 28 U.S.C. §§ 1332 in that complete diversity of citizenship exists between Plaintiff and Defendant, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. The Court has subject matter jurisdiction over this civil action and removal is proper pursuant to 28 U.S.C. §§ 1332 and 1441.

6. Pursuant to 28 U.S.C. 1441(a), United States District Court for the Southern District of Texas, Houston Division, is the district and division within which the State Court action is pending.

DIVERSITY OF CITIZENSHIP

7. This Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendant and more than \$75,000, exclusive of interest and costs, is at stake.

8. Plaintiff alleges it is a citizen of Texas as it is a corporation incorporated in Texas with its principal office in Nueces County, Texas.

9. JCFP is a Delaware limited partnership. Unincorporated associations, such as limited partnerships, have the same citizenship as each of their members or partners. *See Carden*

v. Arkoma Assocs., 494 U.S. 185, 195-96 (1990). Thus, for diversity jurisdiction purposes, JCFP is a citizen of its partners' states of citizenship.

10. The limited partners of JCFP are Simplex Time Recorder LLC; Tyco Fire Protection LLC; Master Protection, LP; and STR Grinnell GP Holding LLC.

11. The citizenship of the individual partners of JCFP is as follows:

12. Simplex Time Recorder LLC is a Massachusetts limited liability company. An LLC is a citizen of every state of which its owners/members are citizens. The only member of Simplex Time Recorder LLC is SimplexGrinnell Holdings LLC, which is a citizen of Luxembourg and Ireland.

13. Tyco Fire Protection LLC is a Delaware limited liability company. An LLC is a citizen of every state of which its owners/members are citizens. The only member of Tyco Fire Protection LLC is Tyco Fire & Security US Holdings LLC, which is a citizen of Luxembourg and Ireland.

14. Master Protection, LP is a Delaware limited partnership, and is a citizen of all states of which its partners are citizens. Its partners are Simplex Time Recorder LLC and SimplexGrinnell Holdings LLC, which are citizens of Luxembourg and Ireland.

15. STR Grinnell GP Holding LLC is a Nevada limited liability company. An LLC is a citizen of every state of which its owners/members are citizens. The only member of STR Grinnell GP Holding LLC is Simplex Time Recorder LLC, which is a citizen of Luxembourg and Ireland.

16. For diversity of jurisdiction purposes, JCFP is therefore a citizen of Luxembourg and Ireland.

17. JCFP is not, and was not at the time this case was filed, a citizen of the State of Texas within the meaning of the Acts of Congress relating to the removal of cases, nor were any of its owners/members.

18. Therefore, requisite diversity of citizenship is satisfied under 29 U.S.C. § 1332(a)(2).

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

19. Plaintiff's Complaint alleges an amount in controversy in the amount of \$89,855.25.

20. Thus, Plaintiff's claim for damages exceeds the requisite amount in controversy for purposed of diversity jurisdiction of \$75,000 under 28 U.S.C. § 1332(a).

CONCLUSION

21. All parties are being provided with a written notice of the filing of this Notice of Removal and a copy of this Notice of Removal is being filed with the Clerk of the 061st Judicial District Court of Harris County, Texas as provided by law.

22. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

23. The allegations of this Notice are true and correct and within the jurisdiction of this Court, and this cause is removable to this Court.

WHEREFORE, Johnson Controls Fire Protection, LP prays that said State Court Action be removed to this Court, and that the 061st Judicial District Court of Harris County, Texas proceed no further in the action pending therein.

DATED: October 26, 2020

/s/ Jude T. Hickland

Attorney for Defendant

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served on Plaintiff's counsel via United States mail on the 26th day of October, 2020, postage prepaid at the following address:

Joseph B. Baucum
Wood, Boykin & Wolter, P.C.
615 North Upper Broadway, Ste. 1100
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(361) 888-9201

/s/ Jude T. Hickland

Jude T. Hickland